

Comcast's blatant and deceptive blocking of peer-to-peer communications is exactly the problem millions of Americans have warned would occur without Net Neutrality protections.

The FCC must take serious and immediate action to put an abrupt end to this harmful practice and prevent other Internet service providers from following Comcast's example of discriminating against the free flow of online information.

The Internet is a vital engine for economic growth, civic participation and free speech. We simply can't allow corporate gatekeepers to smother these democratic communications by discriminating against new technologies, secretly interfering with Internet traffic and stifling innovation.

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The nation's largest telephone and cable companies are crafting an alarming set of strategies that would transform the free, open and nondiscriminatory Internet of today to a privately run and branded service that would charge a fee for virtually everything we do online.

Verizon, Comcast, Bell South and other communications giants are developing strategies that would track and store information on our every move in cyberspace in a vast data-collection and marketing system, the scope of which could rival the National Security Agency. According to white papers now being circulated in the cable, telephone and telecommunications industries, those with the deepest pockets--corporations, special-interest groups and major advertisers--would get preferred treatment. Content from these providers would have first priority on our computer and television screens, while information seen as undesirable, such as peer-to-peer communications, could be relegated to a slow lane or simply shut out.

Under the plans they are considering, all of us--from content providers to individual users--would pay more to surf online, stream videos or even send e-mail. Industry planners are mulling new subscription plans that would further limit the online experience, establishing "platinum," "gold" and "silver" levels of Internet access

that would set limits on the number of downloads, media streams or even e-mail messages that could be sent or received.

To make this pay-to-play vision a reality, phone and cable lobbyists are now engaged in a political campaign to further weaken the nation's communications policy laws. They want the federal government to permit them to operate Internet and other digital communications services as private networks, free of policy safeguards or governmental oversight. Indeed, both the Congress and the Federal Communications Commission (FCC) are considering proposals that will have far-reaching impact on the Internet's future. Ten years after passage of the ill-advised Telecommunications Act of 1996, telephone and cable companies are using the same political snake oil to convince compromised or clueless lawmakers to subvert the Internet into a turbo-charged digital retail machine.

The telephone industry has been somewhat more candid than the cable industry about its strategy for the Internet's future. Senior phone executives have publicly discussed plans to begin imposing a new scheme for the delivery of Internet content, especially from major Internet content companies. As Ed Whitacre, chairman and CEO of AT&T, told Business Week in November, "Why should they be allowed to use my pipes? The Internet can't be free in that sense, because we and the cable companies have made an investment, and for a Google or Yahoo! or Vonage or anybody to expect to use these pipes [for] free is nuts!"

The phone industry has marshaled its political allies to help win the freedom to impose this new broadband business model. At a recent conference held by the Progress and Freedom Foundation, a think tank funded by Comcast, Verizon, AT&T and other media companies, there was much discussion of a plan for phone companies to impose fees on a sliding scale, charging content providers different levels of service. "Price discrimination," noted PFF's resident media expert Adam Thierer, "drives the market-based capitalist economy."

Net Neutrality

To ward off the prospect of virtual toll booths on the information highway, some new media companies and public-interest groups are calling for new federal policies requiring "network neutrality" on the Internet. Common Cause, Amazon, Google, Free Press, Media Access Project and Consumers Union, among others, have proposed that broadband providers would be prohibited from discriminating against all forms of digital content. For example, phone or cable companies would not be allowed to slow down competing or undesirable content.

Without proactive intervention, the values and issues that we care about--civil rights, economic justice, the environment and fair elections--will be further threatened by this push for corporate control. Imagine how the next presidential election would unfold if major political advertisers could make strategic payments to Comcast so that ads from Democratic and Republican candidates were more visible and user-friendly than ads of third-party candidates with less funds. Consider what would happen if an online advertisement promoting nuclear power prominently popped up on a cable broadband page, while a competing message from an environmental group was relegated to the margins. It is possible that all forms of civic and noncommercial online programming would be pushed to the end of a commercial digital queue.

But such "neutrality" safeguards are inadequate to address more fundamental changes the Bells and cable monopolies are seeking in their quest to monetize the Internet. If we permit the Internet to become a medium designed primarily to serve the interests of marketing and personal consumption, rather than global civic-related communications, we will face the political consequences for decades to come. Unless we push back, the "brandwashing" of America will permeate not only our information infrastructure but global society and culture as well.

Why are the Bells and cable companies aggressively advancing such plans? With the arrival of the long-awaited "convergence" of communications, our media system is undergoing a major transformation. Telephone and cable giants envision a potential lucrative "triple play," as they impose near-monopoly control over the residential broadband services that send video, voice and data communications flowing into our televisions, home computers, cell phones and iPods. All of these many billions of bits will be delivered over the telephone and cable lines.

Video programming is of foremost interest to both the phone and cable companies. The telephone industry, like its cable rival, is now in the TV and media business, offering customers television channels, on-demand videos and games. Online advertising is increasingly integrating multimedia (such as animation and full-motion video) in its pitches. Since video-driven material requires a great deal of Internet bandwidth as it travels online, phone and cable companies want to make sure their television "applications" receive preferential treatment on the networks they operate. And their overall influence over the stream of information coming into your home (or mobile device) gives them the leverage to determine how the broadband business evolves.

Mining Your Data

At the core of the new power held by phone and cable companies are tools delivering what is known as "deep packet inspection." With these tools, AT&T and others can readily know the packets of information you are receiving online--from e-mail, to websites, to sharing of music, video and software downloads.

These "deep packet inspection" technologies are partly designed to make sure that the Internet pipeline doesn't become so congested it chokes off the delivery of timely communications. Such products have already been sold to universities and large businesses that want to

more economically manage their Internet services. They are also being used to limit some peer-to-peer downloading, especially for music.

But these tools are also being promoted as ways that companies, such as Comcast and Bell South, can simply grab greater control over the Internet. For example, in a series of recent white papers, Internet technology giant Cisco urges these companies to "meter individual subscriber usage by application," as individuals' online travels are "tracked" and "integrated with billing systems." Such tracking and billing is made possible because they will know "the identity and profile of the individual subscriber," "what the subscriber is doing" and "where the subscriber resides."

Will Google, Amazon and the other companies successfully fight the plans of the Bells and cable companies? Ultimately, they are likely to cut a deal because they, too, are interested in monetizing our online activities. After all, as Cisco notes, content companies and network providers will need to "cooperate with each other to leverage their value proposition." They will be drawn by the ability of cable and phone companies to track "content usage...by subscriber," and where their online services can be "protected from piracy, metered, and appropriately valued."

Our Digital Destiny

It was former FCC chairman Michael Powell, with the support of then-commissioner and current chair Kevin Martin, who permitted phone and cable giants to have greater control over broadband. Powell and his GOP majority eliminated longstanding regulatory safeguards requiring phone companies to operate as nondiscriminatory networks (technically known as "common carriers"). He refused to require that cable companies, when providing Internet access, also operate in a similar nondiscriminatory manner. As Stanford University law professor Lawrence Lessig has long noted, it is government regulation of the phone lines that helped make the Internet today's vibrant, diverse and

democratic medium.

But now, the phone companies are lobbying Washington to kill off what's left of "common carrier" policy. They wish to operate their Internet services as fully "private" networks. Phone and cable companies claim that the government shouldn't play a role in broadband regulation: Instead of the free and open network that offers equal access to all, they want to reduce the Internet to a series of business decisions between consumers and providers.

Besides their business interests, telephone and cable companies also have a larger political agenda. Both industries oppose giving local communities the right to create their own local Internet wireless or wi-fi networks. They also want to eliminate the last vestige of local oversight from electronic media--the ability of city or county government, for example, to require telecommunications companies to serve the public interest with, for example, public-access TV channels. The Bells also want to further reduce the ability of the FCC to oversee communications policy. They hope that both the FCC and Congress--via a new Communications Act--will back these proposals.

The future of the online media in the United States will ultimately depend on whether the Bells and cable companies are allowed to determine the country's "digital destiny." So before there are any policy decisions, a national debate should begin about how the Internet should serve the public. We must insure that phone and cable companies operate their Internet services in the public interest--as stewards for a vital medium for free expression.

If Americans are to succeed in designing an equitable digital destiny for themselves, they must mount an intensive opposition similar to the successful challenges to the FCC's media ownership rules in 2003. Without such a public outcry to rein in the GOP's corporate-driven agenda, it is likely that even many of the Democrats who rallied against further consolidation will be "tamed" by the well-funded

lobbying campaigns of the powerful phone and cable industry.